

REMARKS

A. Introduction

Upon entry of the present amendment, claims 3-8 will be pending in this application. Applicants note with appreciation that the Examiner has allowed claims 3, 4, and 6 and indicated that claims 7 and 8 would be allowable if rewritten in independent form to include all limitations of the base claim and any intervening claims. Applicants also enclose a new declaration as requested by the Examiner.

Applicants have rewritten claim 7 to include the limitations of claim 1; because claim 8 depends from rewritten claim 7, Applicants submit that no amendments are necessary to claim 8. Additionally, the Examiner's rejections to claims 1 and 2 will not be addressed in this response because those claims have been cancelled without prejudice or disclaimer to the subject matter thereof.

B. 35 U.S.C. § 112

The Examiner has objected to claim 5 under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof. The Examiner contends that claim 5 is confusing because "claim 1 states that the compound of the instantly claimed invention excludes noscapine," but the "compound of claim 5 is noscapine."

However, Applicants respectfully point out that claim 5 depends from claim 3, not claim 1. Claim 3 was amended in a preliminary amendment filed January 24, 2001, which deleted line 22 to the end of claim 3, previously reciting "with the proviso that the formula excludes noscapine of the structure [set forth on page 31 of the specification]." Accordingly, because that language was deleted from claim 3, claim 3 is now directed to a method for

treatment of neoplastic disease that does not specifically exclude noscapine, and has been indicated as an allowable claim. Claim 5 merely makes clear that one of the compounds that can be used to treat neoplastic disease is noscapine. Accordingly, claim 5 is not indefinite and the rejection should be withdrawn.